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THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The right of access of everyone to drinking water supply and sanitation services, working paper by Mr. El Hadji Guissé, Special Rapporteur, under Sub-Commission resolution 1997/18

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I. Introduction

1. Water is essential to everyone's life; fresh water and access to drinking water have always been a crucial factor in the viability and success of civilizations. The extent to which the development of this vital element contributes to both social well-being and economic productivity is still too often ignored, although many economic and social activities depend on a supply of good quality drinking water.

2. Some 1.4 billion people today have no access to drinking water and almost 4 billion do without adequate sanitation services. According to estimates by the World Health Organization, 80 per cent of illnesses are transmitted by contaminated water. This is the result of the fact that only a small number of people, particularly in developing countries, have access to acceptable water. In some countries, only 20 per cent of the rural population is estimated to have water of satisfactory quality.

3. Since drinking water is a vital resource for humanity, it is also one of the basic human rights. This is why the General Assembly, in its resolution 3513 (XXX) of 15 December 1975, convened the United Nations Water Conference which was held at Mar del Plata (Argentina), from 7 to 18 March 1977. The decisions which the Conference adopted on the management and development of water resources led the international community, in General Assembly resolution 35/18 of 10 November 1980, to proclaim "the period 1981-1990 as the International Drinking Water Supply and Sanitation Decade, during which Member States will assume a commitment to bring about a substantial improvement in the standards and levels of services in drinking water supply and sanitation by the year 1990".

4. Within the framework of Agenda 21 of the United Nations Conference on Environment and Development, which was held in Rio de Janeiro, from 3 to 14 June 1992, particular attention was paid to the "protection of the quality and supply of freshwater resources: application of integrated approaches to the development, management and use of water resources". It was also stressed that "Water is needed in all aspects of life. The general objective is to make certain that adequate supplies of water of good quality are maintained for the entire population of this planet, while preserving the hydrological, biological and chemical functions of ecosystems, adapting human activities within the capacity limits of nature and combating vectors of water-related diseases" (ibid., para. 18.2).

5. Considering, on the one hand, that we do not frequently measure the extent to which the development of water resources contributes to economic productivity and social well-being and, on the other, that the promotion of water conservation and sustainable management requires public awareness at the local, national, regional and international levels, the General Assembly, in its resolution 47/193 of 22 December 1992, decided to "declare 22 March of each year World Day for Water, to be observed starting in 1993, in conformity with the recommendations of the United Nations Conference on Environment and Development contained in chapter 18 of Agenda 21".

6. Since the proclamation of the International Drinking Water Supply and Sanitation Decade, several international meetings dealing with the issue have been held to set up action programmes to guarantee the world's population an adequate supply of water and sanitation. In May 1985, the European Council of Ministers of the Environment launched the "Water Solidarity Programme"; the International Conference of Non-Governmental Organizations, held in Montreal in June 1990, drafted the Charter on Drinking Water and Sanitation; in September 1990, the Executive Committee of the International Drinking Water Supply and Sanitation Decade and the United Nations Development Programme (UNDP) organized, in New Delhi, the Global Consultation on Safe Water and Sanitation for the 1990s; in March 1994, an international conference on water was held in Noordwijk; in March 1996, the first World Water Forum drafted the Marrakech Declaration; and, recently, in March 1998, an international conference on water held in Paris recalled that more than 1 billion human beings are still without access to drinking water.

II. The water problem

7. Water is a vital resource. It is significant that giving water to a seed causes it to germinate and life to begin. Conversely, the desiccation of living being leads to death. As water always contains different mineral and organic substances, the loss of water may have serious consequences for humans if it amounts to 10 per cent of body mass and may cause death if it reaches 20 per cent or more. Water constitutes 58 to 67 per cent of body weight among healthy adult males and 66 to 74 per cent among newborns.

8. The world's freshwater resources represent only 3 per cent of the total volume of water and yet all human activities depend on them. Fresh water is crucial to meeting household needs, which nonetheless use only 6 per cent of available resources; it also plays a pivotal role in the fields of sanitation, agriculture, industry, urban development, energy production, fisheries, transport, leisure activities and many other human endeavours. It is therefore necessary to recognize the multisectoral dimension of the development of water resources in the context of socio-economic development and the multiple uses of water.

9. Agriculture is the largest consumer of water in the world. Irrigation uses almost 80 per cent of available resources. A kilo of wheat and a kilo of rice require 1,500 and 4,500 litres of water, respectively, while cotton needs 10,000 times its weight in water. In view of the problem of world hunger, the area of land under irrigation is bound to increase. Irrigation makes possible a substantial increase in agricultural production, either through the recovery of arid land for agriculture or by facilitating the production of two or even three harvests each year.

10. Industry has significant water needs; the sector uses nearly 20 per cent of available resources. By way of example, the manufacture of a tonne of steel requires an average 200 m^3 of water; a tonne of paper, from 50 to 300 m^3; and a car, almost 30,000 litres of water. A small number of industries - metallurgy, the chemical industry, oil refining, wood pulp manufacture and the food industry - account for more than half of all the water intended for industrial use. However, the quality required for this water varies greatly.

For many uses, relatively untreated water will suffice, whereas, for others, basically the food industry sector, large amounts of good quality water are needed.

11. Access to drinking water and its quality continue to be a basic problem, since some 3 billion people will lack water, by the year 2025. The data referred to in the UNDP Human Development Report 1996 are very instructive:

(a) Population without access to drinking water (millions): 285 in sub-Saharan Africa, 67 in the Arab countries, 248 in South Asia, 398 in East Asia, 180 in South-East Asia and the Pacific and 92 in Latin America and the Caribbean;

(b) Population without access to sanitation: 293 in sub-Saharan Africa, 98 in the Arab countries, 850 in South Asia, 911 in East Asia, 229 in South-East Asia and the Pacific and 147 in Latin America and the Caribbean (see Table of Indicators 5).

III. Access to drinking water and sanitation and its impact on human rights

12. All legal systems are aimed at the protection of human life in the broadest and most comprehensive sense of the term. Article 3 of the Universal Declaration of Human Rights states that "Everyone has the right to life, liberty and security of person". It also relates to the concept of the "right to live", i.e. to "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions", as stated in article 11 of the International Covenant on Economic, Social and Cultural Rights.

13. The lack of access to drinking water and sanitation endangers the lives of millions of people who are consequently not guaranteed their right to live. According to the objectives of the 20:20 compact outlined in the UNDP Human Development Report 1994, "To give clear and precise expression to the emerging concept of human security, now is the time to draw up a world social charter, which would encompass a broad range of human security issues in both industrial and developing countries. Its adoption should be immediately followed by a global compact for human development, of which the most important targets would include universal primary education; the halving of adult illiteracy rates; primary health care for all; the elimination of severe malnutrition; safe drinking water and sanitation for all; and credit for all". According to the same report, the approximate cost of providing low-cost water supply and sanitation for the period 1995-2005 would be $10 to $15 billion, while the total for achieving the priority human agenda would be $30 to $40 billion.

14. The lack of access to drinking water and sanitation is also a source of tension. Many of the world's current conflicts are caused by the lack or insufficiency of water and other conflicts are about to break out. Need we recall that, by the year 2025, 3 billion men, women and children will be deprived of drinking water? Article 7 of the Declaration on the Right to Development takes on its full meaning in stating that it is a duty to "promote the establishment, maintenance and strengthening of international peace and

security". In the Declaration on the Right of Peoples to Peace, the international community also solemnly proclaimed that "the peoples of our planet have a sacred right to peace" and solemnly declared that "the preservation of the right of peoples to peace and the promotion of its implementation constitute a fundamental obligation of each State".

15. Water, which has been deified since the time of the pharaohs, particularly throughout Africa, plays a part in the fertility of fields, beings and things. There are many symbolic meanings attached to water in popular traditions: the source of life, a purifying substance, an element of regeneration. This is why water is a precious commodity; its source, access and flow are an integral part of the daily life of countless ancestral traditions. Article 1 of the Declaration of the Principles of International Cultural Cooperation states the following: "1. Each culture has a dignity and value which must be respected and preserved. 2. Every people has the right and the duty to develop its culture. 3. In their rich variety and diversity, and in the reciprocal influences they exert on one another, all cultures form part of the common heritage belonging to all mankind."

16. As a collective right, the right to culture is associated with the right of peoples to self-determination, which includes the exercise of their inalienable right to all their wealth and natural resources. The Special Rapporteur of the Sub-Commission, Aureliu Cristescu, has stated that, by virtue of the principle of equal rights and self-determination of peoples, all peoples have the right, in full freedom and without external interference, to pursue their cultural development.

17. Universal disparities in access to drinking water and sanitation are revealing: unequal distribution, both geographical and socio-economic, is responsible for bad management. However, according to an International Law Commission report, "groundwaters are found virtually in every continent" and they have the potential to meet the minimum drinking water and sanitation needs of the entire world population. The report also states that "Groundwater is the largest source of fresh water available in storage on earth. It is estimated that, in comparison with freshwater lakes which hold 120,000 km^3 of water, the amount of groundwater to a depth of half a mile into the crust of the earth is about 4 million km^3. A further 14 million km^3 of water is said to occur at depths of between half a mile and 2 miles" (A/CN.4/462, annex, para. 4).

18. According to the Organization for Economic Cooperation and Development (OECD), groundwater in Europe provides 75 per cent of all drinking-water supplies. It should nonetheless be stressed that, in arid and semi-arid regions, groundwater is often the only source of water, but its development remains precarious and consequently cannot meet the needs of the local population. The objectives of the Declaration on Social Progress and Development include "Equitable sharing of scientific and technological advances by developed and developing countries, and a steady increase in the use of science and technology for the benefit of the social development of society" (art. 13 (a)). The Charter of Economic Rights and Duties of States recognizes that "Every State has the primary responsibility to promote the economic, social and cultural development of its people ... and to choose its means and goals of development, fully to mobilize and use its resources, to

implement progressive economic and social reforms and to ensure the full participation of its people in the process and benefits of development" (art. 7).

19. It has already been noted that many regions of the world today suffer from serious water shortages. At the same time, this resource is undergoing increasing degradation and contamination. In this connection, reference may be made to article 24 of the African Charter on Human and Peoples' Rights, which states that "All peoples shall have the right to a general satisfactory environment favourable to their development". The main causes of these problems include the inadequate treatment of both domestic and industrial sewage water, the destruction of catchment areas, deforestation and the harmful effects of agricultural practices based on the heavy use of pesticides and other chemicals, as well as the dumping of toxic wastes. In this regard, the Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement of Hazardous Wastes within Africa stresses the risk of damage to human health and the environment caused by transboundary movements of hazardous wastes and decides to establish a ban on the dumping of hazardous wastes at sea and in internal waters and waterways. All such practices damage water ecosystems and gravely endanger freshwater biological resources.

20. It was stated above that the largest consumer of water is agriculture, on which food production depends. In 1993, the world population numbered 5.5 billion and, by the year 2025, it is expected to reach 8.5 billion persons, 83 per cent of whom will live in developing countries. One of the greatest challenges of the coming decades will therefore be to increase food production on a sustainable basis. Freshwater needs will thus become more pressing in order to irrigate and water new lands and improve soil yield. It should be stressed that "the elimination of hunger and malnutrition and the guarantee of the right to proper nutrition" are one of the objectives proclaimed by the Declaration on Social Progress and Development (art. 10 (b)). It should also be noted, as stated in the Universal Declaration on the Eradication of Hunger and Malnutrition, that "Marine and inland water resources are today becoming more important than ever as a source of food and economic prosperity. Accordingly, action should be taken to promote a rational exploitation of these resources" (para. 5). The International Covenant on Economic, Social and Cultural Rights, recognizing "the fundamental right of everyone to be free from hunger", advocates some of the steps to be taken by States, including specific programmes, to ensure the realization of that right. These include the necessary measures "To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge" (art. 11, para. 2 (a)).

21. Since water is essential to life, it is therefore not surprising to find a close link between drinking water and health. The quality of water and food supply, as well as of sanitation and public health services, is crucial for health. Over the centuries, throughout the world, many epidemics have been directly linked to the quality of water. Nowadays, water-related diseases continue to be one of the major health problems of the world's population, particularly in developing countries, where it is estimated that 80 per cent of illnesses and more than one third of deaths are caused by drinking contaminated water. However, article 25 of the Universal Declaration of Human Rights states that "Everyone has the right to a standard of living adequate

for the health and well-being of himself and of his family"; and the international community, in adopting the Declaration on Social Progress and Development, set the objective of ensuring everyone an adequate standard of living and of achieving "the highest standards of health and the provision of health protection for the entire population, if possible free of charge" (art. 10 (d)). Many illnesses related to drinking water result from the presence of pathogenic organisms, whether bacteria, protozoans, viruses or worms. Some of them may cause death, while others have only mild pathological consequences. However, despite the existence of vaccines and other preventive measures, many people still succumb to illnesses linked to inadequate drinking water, hygiene and public health.

22. Access to drinking water is directly related to the issue of housing, to which many international human rights instruments refer. Paragraph 8 of general comment 4 adopted by the Committee on Economic, Social and Cultural Rights on the right to adequate housing identifies seven key aspects of this right. One of them stresses that "An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services" (para. 8 (b)). It should also be stressed that the growing volume of refuse and liquid waste produced by cities is a serious threat to health and the environment; furthermore, urban garbage leads to extensive pollution of fresh water, as well as of the air and the soil. Each year about 5.2 million people, 4 million of them children, die from illnesses linked to inadequate refuse collection and sewage disposal.

23. Water supply in arid and semi-arid regions, particularly for rural populations, is a priority among daily activities. With regard to household needs requiring an adequate supply of water - for drinking, cooking, laundry, washing dishes and bathing - it is women, most often young women or even girls carrying basins on their heads, who travel long distances, frequently making the trip several times, to the nearest source of water. They do not know the way to school. However, according to article 13 of the International Covenant on Economic, Social and Cultural Rights, "education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms"; in addition, "primary education shall be compulsory and available free to all". According to the UNDP Human Development Report 1996, school enrolment of girls at the primary level amounts to 50 per cent in the least developed countries, whereas, in industrial countries, the average is 97 per cent. The inadequacy of the infrastructure for drinking water supplies is therefore an obstacle to the "eradication of illiteracy and the assurance of the right to universal access to culture, to free compulsory education at the elementary level and to free education at all levels; the raising of the general level of life-long education", one of the objectives of the Declaration on Social Progress and Development (art. 10 (e)).

24. Access to drinking water and sanitation is a matter for the entire world population. Water as a vital resource concerns every human person, who, according to the Declaration on the Right to Development, is "the central

subject of development and should be the active participant and beneficiary of the right to development" (art. 2, para. 1). In this connection, and in order to meet the basic needs of all, the Programme of Action adopted in Copenhagen stresses the need to create "public awareness that the satisfaction of basic human needs is an essential element of poverty reduction; these needs are closely interrelated and comprise nutrition, health, water and sanitation, education, employment, housing and participation in cultural and social life" (A/CONF.166/9, annex II of chapter I, para. 35 (b)). This public awareness also involves implementing sustainable development plans which are aimed, on the one hand, at integrating the requirements of conservation with the protection of resources and, on the other, at "strengthening the ability of civil society and the community to participate actively in the planning, decision-making and implementation of social development programmes, by education and access to resources" (ibid., para. 15 (j)). Also according to the Programme of Action, it is necessary to strengthen "the capacities and opportunities of all people, especially those who are disadvantaged or vulnerable, to enhance their own economic and social development, to establish and maintain organizations representing their interests and to be involved in the planning and implementation of Government policies and programmes by which they will be directly affected" (ibid., para. 14 (h)).

25. The problem of water is universal. Close cooperation among all nations of the world is therefore essential. The obligation of States to cooperate with each other was first enunciated in Articles 55 and 56 of the Charter; later, it was made explicit in many international instruments, including the Universal Declaration of Human Rights (art. 28) and the International Covenant on Economic, Social and Cultural Rights (art. 2, para. 1). The Declaration on the Right to Development, in which development is defined as a multidimensional and comprehensive process taking place at both the national and international levels, reaffirmed the principle of the duty of solidarity and the obligation that all States have "to cooperate with each other in ensuring development and eliminating obstacles to development. States should realize their rights and fulfil their duties in such a manner as to promote a new international economic order based on sovereign equality, independence, mutual interest and cooperation among all States, as well as to encourage the observance and realization of human rights" (art. 3). The Declaration on Social Welfare, Progress and Development calls for "The provision to the developing countries of technical, financial and material assistance and of favourable conditions to facilitate the direct exploitation of their national resources and natural wealth by those countries with a view to enabling the peoples of those countries to benefit fully from their national resources" (art. 23 (d)). It also calls for "The broadest possible international technical, scientific and cultural cooperation and reciprocal utilization of the experience of countries with different economic and social systems and different levels of development, on the basis of mutual advantage and strict observance of and respect for national sovereignty" (art. 24 (b)). The Universal Declaration on the Eradication of Hunger and Malnutrition proclaims that "All developed countries and others able to do so should collaborate technically and financially with the developing countries in their efforts to expand land and water resources for agricultural production and to assure a

rapid increase in the availability, at fair costs, of agricultural inputs such as fertilizers and other chemicals, high-quality seeds, credit and technology. Cooperation among developing countries, in this connection, is also important" (para. 10).

IV. Methodological issues on the preparation of a study

26. Given the magnitude, diversity and complexity of the problems related to access to drinking water and sanitation services, a descriptive study of these problems would go beyond the framework of the Sub-Commission's activities and might overlap with the work and studies of other United Nations bodies. However, the Sub-Commission could undertake an in-depth study that would bring out both the relationship between the enjoyment of economic, social and cultural rights and the right to development and the question of access to drinking water and sanitation.

27. The comments made in the preceding section show the importance of several issues which should at the outset be considered, studied and analysed with care as part of a study on the right of access to drinking water and sanitation services, which is at the heart of fundamental rights.

28. If the Sub-Commission decides to undertake such a study, it should consider the causes of the fact that more than 1 billion people today have no access to drinking water and sanitation.

29. It would also be necessary to identify and look more closely at the various obstacles to the right of access to drinking water and sanitation services. There are many factors which hamper the realization of this right and which consequently deserve special attention: (i) bad management of fresh water, including groundwater; (ii) the lack of planning and the unequal distribution, both geographical and socio-economic, of drinking water and sanitation services; (iii) the problem of external debt; (iv) structural adjustment programmes; (v) the privatization of State enterprises, particularly those linked to water services; and (vi) the regular increase in the cost of drinking water supplies.

30. With regard to the proposed timetable, it is recommended that a preliminary but substantive report should be submitted to the Sub-Commission at its fifty-first session, in 1999, based on the present working paper and taking into account the priorities set by the Sub-Commission. The report would then be the subject of a critical analysis and in-depth discussion by the Sub-Commission that would make it possible to identify the key issues to be considered in a progress report to be submitted to it at its fifty-second session in 2000. The final report would be submitted to it at its fifty-third session in 2001.